2007-05774/

FOIP FOLIO

Summer

August 2006

SASKATCHEWAN

A NEW ACCESS AND PRIVACY FACE

Effective September 1, 2006, **Colleen Zimmer** will be starting as the Acting Manager of Administration for the Office of the Information and Privacy Commissioner (OIPC). We welcome Colleen from the Department of Community Resources. No stranger to the *Freedom of Information and Protection of Privacy Act* (FOIP) world, Colleen has been the FOIP Coordinator in her department for the last year. Our current Manager of Administration, Candace Malowany, will be starting her leave in mid-September.

'RIGHT TO KNOW' WEEK IN SASKATCHEWAN

September 28 is recognized internationally as 'Right to Know' Day and is promoted to raise awareness of citizens' rights to government information in the interests of open, accountable and transparent government. The original access law was created in Sweden more than 200 years ago. The USA enacted freedom of information legislation in 1966. More than 57 nations around the globe now have such a law. The federal *Access to Information* law came into force in 1984. Since that time every province and territory in Canada has enacted a similar law.

Saskatchewan was the first province in western Canada to pass *The Freedom of Information and Protection of Privacy Act*. This followed a report authored by former Chief Justice E.M. Culliton of the Saskatchewan Court of Appeal recommending such a law.

Saskatchewan, in tandem with the other Canadian provinces and the territories, has created a committee to organize 'Right to Know' Week to promote this worthwhile goal. In Saskatchewan, the week will feature many events that are open to the public:

- Official 'Right to Know' Week proclamations by the Government of Saskatchewan, cities of Saskatoon and Regina;
- Monday, September 25th at 7:00 p.m. – Regina Panel discussion at Regina Public Library featuring **Neil Robertson** (Regina City Solicitor), **David McLean** (Canadian Taxpayers Federation) and **Gary Dickson** (Information and Privacy Commissioner);
- Tuesday, September 26th at 7:00 p.m. – Saskatoon Panel discussion at Moot Court Room, University of Saskatchewan, College of Law, featuring **David MacLean** (Saskatchewan Director, Canadian Taxpayers Federation), **Greg Marchildon** (Canada Research Chair in Public Policy and Economic History, University of Regina) and **Gary Dickson** (Commissioner, Office of the Information and Privacy Commissioner);
- Wednesday, September 29th at 7:00 p.m. – Saskatchewan Institute of Public Policy (SIPP) Window Room, Gallery Bldg., College Avenue Campus, University of Regina
    - Launch of two 'Right to Know' essay contests (high school students & post-secondary students)
    - Chief Justice E.M. Culliton 'Right to Know' Award presentation
    - Keynote address by **Mr. David Gollob**, Vice-President of the Canadian Newspapers Association
    - Reception to follow

Visit our website at www.oipc.sk.ca for details. Events across Canada will be listed on the new website, www.righttoknow.ca.

CALL FOR NOMINATIONS FOR THE INAUGURAL CHIEF JUSTICE E.M. CULLITON 'RIGHT TO KNOW' AWARD

The intent of the award is to celebrate and to recognize leadership in promoting open and accountable government.

To be eligible, the body must be a Saskatchewan government institution (provincial government department, Crown Corporation, board, commission or agency) or a local authority (regional health authority, municipality, library, school, university or college).

The nominee should be an agency that has demonstrated some or all of the following qualities:

- Leadership in promoting public access to the agency's information;
- Creativity in building public awareness of access to information;
- Excellence in orientation of, and service training in, employee access to information responsibilities; and/or,
- Innovation in the development of tools to promote or facilitate access to information.

The deadline for nominations is **Monday, September 11, 2006**.

Nominations can be self-initiated or third party. The nomination should include:

- a letter of nomination (up to 1,000 words), and
- samples of materials relevant to the nomination (testimonials or other material).

The Award will be presented on Wednesday, September 27, 2006 during 'Right to Know' Week, September 25 to 29, 2006.

Nominations should be sent to the 'Right to Know' Committee, c/o #503, 1801 Hamilton Street, Regina, SK S4P 4B4 or fax: 306-798-1603 or email: sbarreth@oipc.sk.ca.

PRIVACY AND ACCESS LAW SECTION (CANADIAN BAR ASSOCIATION)

As noted in earlier issues of the FOIP FOLIO, Freedom of Information and Protection of Privacy (FOIP) or Health Information and Privacy Act (HIPA) Coordinators and Privacy Officers who are not lawyers are encouraged to join the new Privacy and Access Law Section. The Section holds luncheon meetings in Regina and Saskatoon and will feature topics and speakers on current access and privacy issues. To register or for more information call 1-800-424-8288 or go to www.cba.org/saskatchewan/main. The first meeting is in Regina at noon at the Hotel Saskatchewan on September 11, 2006.

REGINA TO WELCOME PAUL CHADWICK

Mr. Paul Chadwick will be visiting Regina on Monday, September 11, 2006. His visit includes meetings with staff of the OIPC, a luncheon presentation to the new Canadian Bar Association (CBA) Privacy and Access Law Section at the Hotel Saskatchewan and an afternoon presentation to the Saskatchewan Institute of Public Policy. Mr. Chadwick has extensive experience as a lawyer, journalist, access and privacy advocate and Privacy Commissioner for Victoria, Australia. You can register for the CBA luncheon by calling 1-800-424-8288 if you are a member or wish to become a member. You can register for the Saskatchewan Institute of Public Policy (SIPP) presentation by calling (306) 585-5777.

HOW ABOUT A NEW DVD FOR YOUR PRIVACY COLLECTION?

The Ontario Information and Privacy Commissioner office has produced two excellent video pieces: *The Personal Health Information Protection Act* - a video guide for training and education and *A Word About RFIDs and Your Privacy in the Retail Sector*. The health DVD is about 25 minutes and includes a number of scenarios common to the health care sector. For more information contact 1-800-387-0073 or email: ipc.publication@ipc.on.ca or view the website: www.ipc.on.ca.

A REALLY BAD HEALTH PRIVACY BREACH IN ONTARIO

Imagine you are in the middle of divorce proceedings at the time you enter the hospital for an operation. Imagine also that your estranged husband and his nurse girlfriend both work at the hospital to which you are being admitted. Further imagine that you make it very clear at the time that you are admitted that you do not wish your husband to have access to any of your information during or concerning your hospital stay. How would you feel to discover that notwithstanding your efforts, your husband's girlfriend was able to access all kinds of personal health information (phi) from the hospital's electronic health record and shared it with your husband. Well, that is exactly what happened to a patient at the Ottawa Hospital. This was the situation that our counterpart, **Ann Cavoukian**, Ontario Information and Privacy Commissioner, addressed in her Order HO-002. This is available online at www.ipc.on.ca. Commissioner Cavoukian found that the nurse used the complainant's phi and disclosed it to the complainant's husband contrary to the Ontario *Personal Health Information Protection Act, 2004*. Staff of the hospital failed to follow internal policies that specifically related to the protection of patients' privacy, and in so doing, failed to ensure the fullest protection of the complainant's phi. The hospital also failed to take immediate action to prevent any further unauthorized use of the complainant's phi, once notified by the complainant of the possible breach of her privacy.

Of note is the very slow reaction of the Ottawa Hospital to the complaint and the failure to immediately take steps to stop the improper use and disclosure of the complainant's phi.

NEW RADIO FREQUENCY IDENTIFICATION TOOLS

Both the Quebec and Ontario Information and Privacy Commissioners' offices have produced excellent papers on the privacy issues associated with radio frequency identification tools (RFID). They can be accessed at www.cai.gouv.gc.ca and www.ipc.on.ca respectively.

CRIMINAL RECORD DATABASE – HOW IS IT CONTROLLED?

Privacy Commissioner **Paul Chadwick** of the Australian state of Victoria has just released an excellent report entitled *Controlled disclosure of criminal record data*. This is accessible at www.privacy.vic.gov.au. As Canada moves toward its new single portal criminal information database for police and related services, this report is timely and relevant.

OIPC 'BROWN BAG' LUNCHEON WORKSHOPS CONTINUE...

Our office will be scheduling our 'brown bag' luncheon series into the fall and winter. The workshops are free and open to FOIP and HIPA Coordinators. The location is our office at 503-1801 Hamilton Street, Regina. You are encouraged to bring your 'brown bag' lunch and join us for a discussion of key access and privacy issues. It is necessary to pre-register since our boardroom can only accommodate 12. To register, call Kara Philip at 787-8350 or 1-877-748-2298. There will be a handout for each workshop. Each session starts at 12:10 p.m. and will conclude by 12:50 p.m. to accommodate tight schedules.

The topics for the fall and winter sessions will include:

Wednesday, September 13, 2006	How and where to look for records – the Duty to Search – What does 'duty to assist' mean?
Wednesday, October 18, 2006	How to survive and even have fun as the FOIP/HIPA Coordinator
Wednesday, November 8, 2006	How much is too much? Simplifying Fees and Fee estimates
Wednesday, December 6, 2006	Severing made easy or at least a lot easier!
Wednesday, January 10, 2007	A FOIP Love Triangle! The Public Body, The Applicant and the Third Party (FOIP Part V)

NEW PRIVACY LEGISLATION IN NOVA SCOTIA

In response to the threat posed by the *USA Patriot Act* and other outsourcing risks, the province of Nova Scotia has enacted new legislation. The *Personal Information International Disclosure Protection Act* provides specifically for the protection of personal information in the control of a public body or municipality when that data is stored, disclosed or accessed outside of Canada. There are serious fines in the order of $500,000 for violation of the law. There is nothing comparable in Saskatchewan. You can access the Nova Scotia law at www.gov.ns.ca/legislature/legc/bills/60th_1st/3rd_read/b019.htm. As a result, British Columbia, Alberta, Nova Scotia, Quebec have all strengthened their privacy legislation to provide clear responsibility for outsourcing personal information reinforced by offence provisions and substantial maximum fines.

FUTURE EVENTS

September 11, 2006 – *Reflections on the last 5 years as Privacy Commissioner for the State of Victoria, Australia*, Speaker: Paul Chadwick - Inaugural Noon Luncheon, Canadian Bar Association, Saskatchewan Access and Privacy Law Section – Regina, Hotel Saskatchewan. To register, call 1-800-424-8288 or email: cba.sk@sasktel.net. (visit http://www.cba.org/Saskatchewan for details)

September 13, 2006 – OIPC Brown Bag Luncheon Workshop, (12:10 p.m. – 12:50 p.m.), Topic: "Duty to Assist", 503-1801 Hamilton Street, Regina (call (306) 787-8350 for details or to register)

September 18-20, 2006 – *Information Management in the Public Sector*, Ottawa, Ontario. To register contact 1-800-363-0722 or e-mail info@federatedpress.com (visit http://w1.federatedpress.com for details)

September 25, 2006 – Regina Panel Discussion on the 'Right to Know', Regina Public Library, RPL Film Theatre, 2311 – 12th Ave. at 7:00 p.m.

September 26, 2006 – Saskatoon Panel Discussion on the 'Right to Know', Moot Court Room (upper, Room 13), College of Law, University of Saskatchewan at 7:00 p.m.

September 27, 2006 – Regina 'Right to Know' Evening and Keynote Address, Saskatchewan Institute of Public Policy (SIPP) Window Room, Gallery Building, College Avenue Campus, University of Regina at 7:00 p.m.

September 28-29, 2006 – *Electronic Records, E-Discovery and Access to Information*, Insight Conference, Toronto. (for more information call 1-888-777-1707 or visit http://www.insightinfo.com/conferences/brochures/pdfs/LAC06999.pdf#search=%22electronic%20records%2C%20e-discovery%22)

FUTURE EVENTS continued

October 9, 2006 – *4th Annual- Privacy & Data Protection 2006*, London, England. (Visit www.transatlantic-events.com for details)

October 12-13, 2006 – *Stop the Bleeding – Bandage Solutions Don't Work*, Canadian Health Care Anti-Fraud Association, Halifax (visit http://www.chcaa.org/conference2006/ for details)

October 18, 2006 – OIPC Brown Bag Luncheon Workshop, (12:10 p.m. – 12:50 p.m.), Topic: "How to survive and even have fun as the FOIP/HIPA Coordinator", 503-1801 Hamilton Street, Regina (call (306) 787-8350 for details or to register)

October 19, 2006 – *Advocacy tips when you represent a client in a federal or provincial privacy investigation or access review*, CBA Privacy and Access Law Section – Saskatoon Club (call 1-800-424-8288 for details)

November 8, 2006 – OIPC Brown Bag Luncheon Workshop, (12:10 p.m. – 12:50 p.m.), Topic: "How much is too much? Simplifying Fees and Fee estimates", 503-1801 Hamilton Street, Regina (call (306) 787-8350 for details or to register)

November 13, 2006 – *Electronic Health Information and Privacy Conference*, Ottawa, Ontario (visit http://www.ocri.ca/ehip for details)

December 6, 2006 – OIPC Brown Bag Luncheon Workshop, (12:10 p.m. – 12:50 p.m.), Topic: "Severing made easy or at least a lot easier!", 503-1801 Hamilton Street, Regina (call (306) 787-8350 for details or to register)

January 10, 2007 – OIPC Brown Bag Luncheon Workshop, (12:10 p.m. – 12:50 p.m.), Topic: "A FOIP Love Triangle! The Public Body, The Applicant and the Third Party (FOIP Part V)", 503-1801 Hamilton Street, Regina (call (306) 787-8350 for details or to register)

TO CONTACT US:

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